

REMARKS

Applicants acknowledge with appreciation the withdrawal of the previously stated bases for the rejection of claims.

Applicants further acknowledge with appreciation the allowance of direct methanol fuel cell Claims 16, 17, 24, 25, and 28 to 31.

In a sincere effort to expedite prosecution independent Claim 4 has been amended which is directed to a supported catalyst suitable for use as a cathode of direct methanol fuel cells. More specifically, reference to an alloy of cadmium and platinum has been deleted. Each of the remaining Claims 13, 15, 22, and 23 includes all of the limitations of independent Claim 4. Additionally, for consistency dependent Claim 23 has been amended so as to delete reference to platinum and cadmium.

The continued rejection of presently solicited Claims 4, 13, 15, 22, and 23 under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a) over the different teachings of newly cited U.S. Patent No. 4,312,792 to Antos would be lacking sound technical and legal bases. Each of these claims is directed to a supported catalyst suitable for use as a cathode of direct methanol fuel cells. As previously indicated, these claims have been amended so as to delete reference to an alloy of cadmium and platinum. It respectfully is pointed out that Antos in all instances teaches a multi-metallic catalyst for use in a different technological area which in all instances requires the presence of rhenium, platinum, and cadmium. The subject matter of presently solicited Claims 4, 13, 15, 22, and 23 is neither disclosed nor remotely suggested.

It is well established law that patentability is negated under 35 U.S.C. § 102(b) only when a prior disclosure is identical to the invention sought to be patented. Each

and every element of the claimed invention must be disclosed in a single reference in complete detail. See Akzo N.V. v. United States ITC, 808 F.2d 1471, 1 U.S.P.Q.2d 1241 (Fed. Cir. 1986); Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986); Rolls-Royce Ltd. v. GTE Valeron Corp., 800 F.2d 1101, 231 U.S.P.Q. 185 (Fed. Cir. 1986); Kloster Speedsteel AB v. Crucible Inc., 793 F.2d 1565, 230 U.S.P.Q. 81 (Fed. Cir. 1986); Great Northern Corp. v. Davis Core & Pad Co., 782 F.2d 159, 228 U.S.P.Q. 356 (Fed. Cir. 1986); In re Donohue, 766 F.2d 531, 226 U.S.P.Q. 619 (Fed. Cir. 1985); W.L. Gore & Assoc. v. Garlock, Inc., 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983); SSIH Equip S.A. v. United States ITC, 713 F.2d 746, 218 U.S.P.Q. 678 (Fed. Cir. 1983); and Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). The withdrawal of the rejection under 35 U.S.C. § 102(b) is urged to be in order and is respectfully requested.

It further respectfully is submitted that a *prima facie* case for the obviousness of the presently claimed subject matter is absent in the reasonably derived teachings of the reference. To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must reasonably be taught or suggested in the prior art. They are not. See in this regard M.P.E.P. § 2143.3 citing In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in the claim must be considered when judging the patentability of the claim against the prior art." In re Wilson, 424 F.2d 1342, 165 USPQ 494 (CCPA 1970). The withdrawal of the rejection under 35 U.S.C. 103(a) is similarly urged to be in order and is respectfully requested.

It respectfully is requested that the recent Information Disclosure Statement that was filed February 4, 2009 be made of record.

The issuance of a formal Notice of Allowance is urged to be in order and is respectfully requested.

If there is any remaining point that requires clarification prior to the allowance of the application, the Examiner is urged to telephone the undersigned attorney so that the matter can be discussed and expeditiously resolved.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: February 17, 2009

By: 

Benton S. Duffett, Jr.
Registration No. 22030

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620